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Senator Eric D. Coleman, Co-Chair
Representative Brendan Sharkey, Co-Chair
Planning and Development Committee
General Assembly
Legislative Office Building
Room 2100
Hartford, CT 06103

Re: Comments on Raised Bills 6467, 6466, and 6588

Dear Senator Coleman, Representative Sharkey, and Members of the Planning and Development Committee:

This letter comments on:

- Raised Bill 6467 Smart Growth and Plans of Conservation and Development
- Raised Bill 6466 Projects of Regional Significance
- Raised Bill 6588 Training for Local Land Use Commissioners

I have practiced land use law in Connecticut for 27 years

Raised Bill 6467

One portion of the definition of smart growth, as drafted, creates a major problem for existing programs that assist the development or preservation of workforce housing, and needs to be amended.

Section 1 defines "smart growth" as "economic, social, and environmental development that (1) . . . promotes . . . (E) affordable and available housing for mixed income households in close proximity to transportation and employment centers" ***This text will undermine workforce and affordable housing development, including the HOMEConnecticut program now in use in more than 50 municipalities.*** First, the term "available" housing, undefined, should be deleted. Second, the term "mixed income" has no place in a smart growth bill; as Section 1 makes clear, smart growth is about location (in the broadest sense) of development. Whether a residential development contains a mix of market-rate and price-restricted units, or all price-restricted units (as some government subsidy programs require), is not relevant to smart growth criteria.

Next, and most important, subsection (E) as drafted excludes from the definition of smart growth all workforce and affordable housing preservation or development that is not in close proximity to transportation and employment centers. Thus, properties with sewer, water, and traffic capacity to support the higher densities by which lower per unit costs and affordability are achieved are excluded. This exclusion is directly contrary to the HOMEConnecticut program's explicit effort to promote workforce housing in "eligible locations" as defined in Conn. Gen. Stat. § 8-13m(5)[1]. It is also contrary to HOMEConnecticut's lower density requirements and incentives for towns with populations below 5,000, and on land owned by a land trust or municipality. In addition, if the State Plan of Conservation and Development is required to incorporate smart growth as defined in this bill, this will create an inconsistency with HOMEConnecticut because Section 8-13n(b)(1) requires Incentive Housing Zones to be consistent with that Plan. Thus, Section (E) as written needs to be amended.

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[1] **Sec. 8-13m. Definitions.** As used in this section and sections 8-13n to 8-13x, inclusive:

(5) "Eligible location" means: (A) An area near a transit station, including rapid transit, commuter rail, bus terminal, or ferry terminal; (B) an area of concentrated development such as a commercial center, existing residential or commercial district, or village district established pursuant to section 8-2j; or (C) an area that, because of existing, planned or proposed infrastructure, transportation access or underutilized facilities or location, is suitable for development as an incentive housing zone.

In order to harmonize HOMEConnecticut and other workforce and affordable housing programs with this smart growth definition, the following language should be substituted:

> ***"(E) development or preservation of workforce or affordable housing through densities that reduce sales prices or rents, including in locations proximate to transportation or employment centers. . . ."***

Lastly, in the definitions section of this bill, is the intention that a development, to qualify as smart growth, must meet all of the listed criteria, or just one or more?

Raised Bill 6466

In Section (b), the phrase "all relevant municipal, regional and state agencies" should be revised to "all municipal, regional and state agencies with jurisdiction over the proposal. . . ." "Relevant" is unclear; only agencies with jurisdiction should participate; and agencies should not decide unilaterally and regardless of statutory authority whether they are "relevant."

Subsection (c), proposing that information provided during a workshop is not subject to Freedom of Information Act disclosure and "shall not be considered" in later proceedings is (a) contrary to the letter and spirit of the FOIA and open government; (b) unworkable in that one cannot present information regarding a permit application to public officials and expect it to be secret or confidential; and (c) as written, the bill makes information, once submitted preliminarily, unusable thereafter. The better way to handle this is for applicants to stamp their materials "preliminary."

Raised Bill 6588

Subsection (c), directing judges to "consider the training and expertise of the local land use commissioners," should be deleted. Training is commendable and should be required, but well-trained commissions are just as capable of making illegal or unsupported decisions as untrained commissioners. Moreover, directing a judge to "consider" training without any direction as to how he or she should do so as a legal matter will generate confusion and needless litigation.

Thank you.

Very truly yours,

Timothy S. Hollister

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